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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Gas and Electric Company (U39E) for Approval of its Electric Vehicle Infrastructure and Education Program	Application No. 15-02-009 (Filed February 9, 2015)

REPLY BRIEF OF THE JOINT MINORITY PARTIES ON PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E) ELECTRIC VEHICLE INFRASTRUCTURE AND EDUCATION PROGRAM APPLICATION

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July 8, 2016

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I. INTRODUCTION

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure, as well as the April 28, 2016 ruling of Administrative Law Judge (ALJ) Farrar issued at the conclusion of evidentiary hearings, the Joint Minority Parties (JMP)[1] respectfully submits this reply brief on the Application of Pacific Gas and Electric Company for Approval of its Electric Vehicle Infrastructure and Education Program. Opening briefs were filed on June 17, 2016.

II. OVERARCHING CONCERNS WARRANT A MEASURED AND NARROW PILOT PROGRAM

As evidentiary hearings and opening comments have highlighted[2], many key elements of PG&E's EV program are still undeveloped and underdeveloped. Critical aspects such as site

[1] Members of the Joint Minority Parties include the National Asian American Coalition, the Ecumenical Center for Black Church Studies, the Jesse Miranda Center for Hispanic Leadership, Christ Our Redeemer AME Church, the National Hispanic Christian Leadership Conference, the Los Angeles Latino Chamber of Commerce, and Orange County Interdenominational Alliance.

[2] A.15-02-009 *Opening Comments of the Joint Minority Parties on Pacific Gas and Electric Company's (U 39 E) Electric Vehicle Infrastructure and Education Program Application* (6/17/2016) ("JMP Opening Brief") at 18, A.15-02-009 *The Office of Ratepayer Advocates' Opening Brief* (6/17/2016) ("ORA Opening Brief") at 12.

selection methodology, market segment prioritization goals, and participation payment exemptions have not been adequately defined to allow meaningful evaluation of the likely consequences or possible benefits of the utility's proposals. In any program the Commission approves, the recommendations of the non-settling parties should be integrated to fill in the deficiencies in PG&E's proposals.

A. PG&E's Poor Performance in Prior Programs Necessitates Extreme Caution with New Projects

PG&E has stated that the unresolved aspects of their proposals will be developed later, through consulting with the advisory group or by referencing as yet unfinished studies or reports. But PG&E should not be trusted with the discretion to "work things out later", especially given their poor track record with prior novel programs. ORA presented a very alarming analysis of PG&E's performance in the SmartMeter Program roll out, succinctly presenting the "serious trouble" PG&E was in when they applied for over $570 million in additional funding for "upgrades":

- PG&E had already spent one third of its initial $1.7 billion authorization, but had only activated 2% of the electric meters;
- PG&E had exhausted $70 million of its $88 million Project Management budget for a project that was barely off the ground; and
- PG&E's information technology (IT) expenses were already 33% over budget.[3]

The present EV proposals involves even more unknowns for the utility than the SmartMeter Program, as EV charging stations are beyond PG&E's core services and responsibilities, and involve new factors PG&E will not be familiar with. Therefore, the Commission should be very cautious in allowing PG&E to expand their reach into providing and owning EVSE, and authorize only a small, focused pilot program to test assumptions.

[3] ORA Opening Brief at 15, citing to A.07-12-009 *Opening Brief of the Division of Ratepayer Advocates* (8/29/2008) at 4-5.

B. Market Factors Warrant a Reduced Need for Utility Investment

As well-illustrated by TURN, there is already a robust market for charging stations in PG&E's service territory.[4] The current market has developed without any involvement of ratepayer funds to the point where San Francisco has become second in the nation in availability of Level 2 and DC Fast chargers.[5] A large influx of ratepayer funded, utility owned EVSE threatens to disrupt this system, as much as potentially stimulate it.

Rapidly developing EV and EVSE technology also present a clear imperative to severely limit utility investment, to prevent stifling innovation by entrenching one technology or over-committing resources to obsolete technology. Not only do developments in EVSE technology itself create a danger that utility investments now will soon become less useful, but advances in EV range and battery size will continually reduce the amount of charging that EV drivers will need.[6] The changing nature of the EV market makes large scale programs that focus only on current technology inherently less responsive to EV driver needs and wants than smaller, phased programs which can be redesigned for future deployment.

C. Substantial Alternatives to Ratepayer Funding Are Available for EV Infrastructure Development

Significant investments have already been and continue to be committed toward building thousands of charging stations in California, which do not depend upon ratepayer funds. These programs have also leveraged funding much more efficiently that PG&E's proposals. TURN points out that the California Energy Commission (CEC) has awarded around $40 million to

[4] A.15-02-009 *Opening Brief of the Utility Reform Network Regarding the PG&E Electric Vehicle Infrastructure and Education Program* ("TURN Opening Brief") at 30.
[5] *Id.*
[6] ORA Opening Brief at 13-14.

build 9,369 stations, and almost $9 million to build 61 DCFC.[7] The costs per charger under these programs are far more economical that PG&E's proposals, which may be designed to test a different model on the market, but a model that is far more expensive with highly speculative benefits must be limited in cost and size, given the superior alternatives available.

Furthermore, on June 28, 2016, after opening briefs were filed, federal and state regulators led by Attorney General Kamala Harris, announced a multibillion dollar settlement proposal with Volkswagen, which provides for refunds to present Volkswagen and Audi diesel vehicle owners.[8] However, little attention has so far been paid to Volkswagen's agreement in the settlement, as part of a DOJ Consent Decree, to pay $2 billion to "create infrastructure for and promote public awareness of zero emission vehicles ('ZEVs')."[9] The $2 billion is intended for use in two separate investment planning processes, "one for the State of California and the other for the rest of the United States"[10]. $800 million will be awarded specifically for California, to be deployed over four 30-month cycles, with $200 million invested in each cycle[11], to support the increased use of zero emissions vehicle technology including "the development, construction, and maintenance of zero emission vehicle-related infrastructure"[12].

The Joint Minority Parties have discussed the current utility pilot programs and the VW settlement proposal with lead counsel for the plaintiff VW owners, Elizabeth Cabraser. As a

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7 TURN Opening Brief at 42.

8 *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, Consumer Class Action Settlement Agreement And Release (6/28/2016).
https://www.vwcourtsettlement.com/en/docs/PSC_Settlement_Agreement/Settlement%20Agreement/Settlement%20Agreement%206.28.16.pdf

9 *Id.* at 3.

10 *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, Partial Consent Decree, (6/28/2016) at Appendix C.
https://www.justice.gov/sites/default/files/enrd/pages/attachments/2016/06/28/vw_partial_2l_cd_and_appendices_docketed.pdf.

11 *Id.* at section 1.2.

12 *Id.* at Appendix C.

result of the discussion, JMP has been invited to participate in the case before the federal district court to offer comments on how to maximize the effective use of the settlement funds, especially in terms of promoting adoption of zero-emission vehicles among the low/moderate-income community. Our tentative goal, subject to input from other ratepayer advocates and non-settling parties and an evaluation of current pilot programs, will be to recommend that a large percentage of the $800 million allocated for California be used to build EVSE in MUDs serving low/moderate-income families. However, we will also be raising the issue of developing infrastructure for other ZEV technology, such as hydrogen fuel cell vehicles. (It is anticipated that the primary hearing in federal district court on this issue will occur in October of 2016).

In the interim, on July 5, 2016, JMP sent a letter to the CEO of Volkswagen suggesting an early discussion on how, for example, this Commission and the parties in this case, including PG&E and other potentially affected California utilities, can participate[13]. JMP has also invited Volkswagen representatives to two public meetings we are hosting in Silicon Valley on July 9 and 10, at the Island Pacific supermarket stores in Union City and San Jose.

On its face, $800 million is more than the cost of the pilot programs of PG&E, SDG&E, and Southern California Edison combined. Along with the considerable funds available through the CEC and other agencies promoting EVSE deployment, substantial ratepayer funds need not also be put at risk to encourage EV adoption. The Commission can proceed cautiously with a smaller, more focused pilot program to test PG&E's ability to manage EV charging infrastructure.

[13] Copies of the July 5 letter to CEO Müller of Volkswagen can be made available upon request.

III. PG&E RELIES UPON UNREASONABLE ARGUMENTS TO JUSTIFY PROGRAM COSTS

A. Analyzing Cost Metrics on a Per-Customer Basis Ignores the Precedent of Evaluating the Reasonableness of Overall Program Budget

PG&E asserts that the "key cost metric" in their settlement proposal is the cost to the typical residential electric customer, and then compares that to the cost per-customer of SDG&E's EV program.[14] PG&E highlights their maximum cost increase of $2.64 per customer versus SDG&E's $2.75 as indicative that their program cost is consistent with what the Commission has approved in other EV programs. This assertion has no basis.

In the SDG&E decision[15], the discussion of the program's cost and size centers around setting the overall $45 million budget and 3,500 charging station numbers.[16] It is the $45 million overall budget that is found to be acceptable and reasonable in the findings of fact[17], conclusions of law[18], ordering paragraphs[19], and is incorporated into the alternative program terms[20]. The $2.75 increase to customers is only mentioned in the discussion section one time, and only at the end, as part of a breakdown of the impact the $45 million overall budget would have[21]. The per-customer cost is never mentioned in the findings of fact, conclusions of law, ordering paragraphs, or the alternative program terms.

PG&E places undue emphasis on the per-customer cost metric from the SDG&E decision, and ignores the primary focus that the SDG&E decision placed on overall budget size.

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[14] PG&E Opening Brief at 28.
[15] D.16-01-045, Decision Regarding Underlying Vehicle Grid Integration Application and Motion to Adopt Settlement Agreement, (2/4/2016) ("SDG&E decision").
[16] SDG&E decision at 126-129
[17] *Id.* at 171, 172.
[18] *Id.* at 180.
[19] *Id.* at 181, 182.
[20] *Id.* Attachment 2 at 3, 12.
[21] *Id.* at 129.

PG&E disregards the clear finding of fact in the SDG&E decision that a pilot program costing $103 million "exceeds the cost of typical pilot programs"[22] and that it would be "foolhardy to authorize a [EV] pilot program of $103 million, using ratepayer money"[23] without an assurance of frequent usage and widespread adoption of EVs.

B. PG&E Fails to Provide Any Context With Their Analysis of Cost Impact Per-Customer

Even if the Commission were persuaded to consider cost per customer as another metric to evaluate the reasonableness of overall program budget, the impact to customers from the costs of this one program cannot be considered in isolation. PG&E has not presented data on what percent increase the $2.64 amount would represent for the average PG&E customer, as compared to the percent increase $2.75 is for SDG&E customers. PG&E has not explained how the total combined bill increase from this EV program and all other PG&E programs will impact average customer bills, as compared to the total bill increases SDG&E customers face[24]. Any evaluation of program cost reasonableness based on how individual customers are impacted must look at all the cost increases those customers are facing. Additionally, consideration should also be given to the economic circumstances affecting customers' ability to pay within the utility's service territory, including changes in the levels of cost of living, median wages, and unemployment rates. PG&E has not provided any of this information to justify their claim of cost reasonableness.

As a related matter, PG&E attempts to excuse their overall failure to show cost-benefits by mentioning in a footnote that, "The scoping memo in R.13-11-007 provides that pilot

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[22] *Id.* at 167.
[23] *Id.* at 168. See also JMP Opening Brief at 6, TURN Opening Brief at 17-18.
[24] PG&E customers face an average bill increase of $4 from PG&E's 2017 GRC case and $5.23 from the GTSR case. TURN Opening Brief at 39.

programs initiated under the Rulemaking will not be required to demonstrate positive cost-benefit ratios as a condition of Commission approval."[25] JMP finds it surprising that after blatantly disregarding the clear directive in the scoping memo for this present proceeding, which limits PG&E proposals to 2,510 chargers, PG&E would then try to justify their failure to show the cost-benefits of their excessive programs by citing to a scoping memo from a separate proceeding.

IV. THE SCOPING MEMO ALREADY AUTHORIZES A SUBSTANTIAL NUMBER OF CHARGING STATIONS

PG&E claims that the 7,600 charging stations in their settlement proposal are only a small proportion of what will be needed in the future[26], and is therefore a reasonable number to bring to market now. TURN has already demonstrated the errors and questionable assumptions PG&E relied upon in generating their "attach rate" and their assumed number of required charging stations.[27] But even the 2,510 charging stations authorized in the scoping memo would massively increase the number of EVSE in the current market. A program of this size would almost double the number of commercial charging stations in PG&E's service territory.[28] 2,510 charging stations is more than the total number of public and private EVSE available in any state in the country, other than California.[29] The Commission should conclude that 2,510 chargers is

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[25] A.15-02-009 *Opening Brief of Pacific Gas and Electric Company (u39e), Alliance of Automobile Manufacturers, American Honda Motor Co., Inc., Center for Sustainable Energy, Coalition of California Utility Employees, Greenlots, the Greenlining Institute, Marin Clean Energy, Natural Resources Defense Council, Plug In America, General Motors LLC, Sierra Club, and Sonoma Clean Power* (6/17/2016) ("PG&E Opening Brief") at 20, footnote 78.
[26] PG&E Opening Brief at 3, footnote 7.
[27] TURN Opening Brief at 31-34.
[28] Ex. 59 TURN Prepared Direct Testimony of Eric Borden at 3, Ex. 4 PG&E Rebuttal Testimony at 6, Table 1.
[29] US Dept of Energy, Alternative Fuels Data Center, http://www.afdc.energy.gov/fuels/stations_counts.html. See also Ex. 59 at 5, Figure 1.

more than sufficient to not only test market response to increased EVSE availability, but to actually dramatically spur EV adoption, if the theory is valid that EVSE availability reduces a significant barrier to adoption.

V. PILOT PROGRAMS SHOULD BE DESIGNED TO ENCOURAGE EV ADOPTION IN UNDERSERVED MARKETS

A. In a Program Intended to Encourage EV Adoption, EVSE Deployment Should Not Be Demand Driven

PG&E has stated that their minimal goals for EVSE deployment in MUDs are designed to prevent "hindering program implementation in other targeted segments that will remain demand driven".[30] Their deployment goals are intended to "provide PG&E with sufficient flexibility in these underserved markets so that charging stations are deployed based on actual market demand and needs…"[31] If ratepayer-subsidized free or discounted EVSE are being offered in order to encourage adoption of EVs, targeting market segments where there is already demand will only supplant existing third-party providers who could have met that demand. It makes more sense to target the underserved segments that would adopt greater number of EVs, but for the availability of inexpensive EVSE. PG&E's plan to set minimal deployment goals in underserved market segments and prioritize areas with existing demand might be appropriate for a competitive business model, but that is the exact opposite of what the Commission should authorize for a pilot program from a ratepayer funded monopoly.[32]

Instead, there must be a high priority placed on deployment at what has been

[30] PG&E Opening Brief at 34.
[31] *Id.*
[32] *see also* JMP Opening Brief at 23-24.

acknowledged as the most underserved market segment, multi-unit dwellings (MUDs).[33] JMP and the non-settling parties jointly recommend that the Commission set a minimum deployment requirement of 50% at MUDs for any pilot program that is approved.[34] Additionally, PG&E should not be allowed to count DCFC deployed in public locations toward their MUD deployment requirements.[35] While DCFC benefits for nearby MUDs is an interesting theory that can be tested with minimal DCFC deployment, it is unlikely that public DCFC will serve the needs of EV drivers at MUDs, given that most MUD drivers park and charge their EVs overnight. It is also established that the availability of home charging is a virtual necessity before a driver would purchase an EV,[36] with some evidence that workplace charging can also have an influence on the purchase decision. But there is no evidence to support the idea that anyone would buy an EV based on the availability of nearby public DCFC.

However, JMP supports the provision offered by TURN to substitute some Level 1 chargers for Level 2 chargers.[37] Level 1 chargers are able to meet the EV charging needs of most drivers who park at long dwell-time locations, especially MUDs and workplaces as well, and cost significantly less than Level 2 chargers, making them even more appealing to potential EV drivers who are concerned with costs. The inclusion of Level 1 chargers as an option in a pilot program will provide the Commission with more data to compare and apply in future program design, and if EV adoption does grow and EV drivers become more committed to the technology, they would be more willing to upgrade to faster chargers later on at their own expense. Including level 1 chargers makes sense from the perspective of gathering more data,

[33] JMP Opening Brief at 24, TURN Opening Brief at 55, Ex 63 ChargePoint Prepared Testimony of Michael Jones at 11, Ex 64 ChargePoint Prepared Testimony of Colleen C. Quinn at 22.
[34] JMP Opening Brief at 10.
[35] PG&E Opening Brief at 135.
[36] JMP Opening Brief at 24.
[37] TURN Opening Brief at 9-10.

further reducing program cost, and better addressing barriers to EV adoption.

B. Provisions for Disadvantaged Communities Must Maintain Robust Requirements

PG&E has offered the disadvantaged community (DAC) elements of their settlement proposal as "exciting and significant improvements" on the other utility pilot programs, designed to expand "the availability of clean vehicles to underserved low and moderate income communities, where the costs and risks of pollution are great and the benefits of clean transportation are most needed and widespread."[38] Although PG&E's DAC goals are greater than those of other utility pilots, they are warranted "in light of the size of PG&E's service territory and the absolute number of PG&E customers who live in Disadvantaged Communities".[39] The need for these robust goals that prioritize increased EV adoption in DACs does not change with the size of the pilot program, and the DAC elements of the settlement proposal should be retained in an appropriately sized compliant pilot.

DCFC located in proximity to DACs may provide some as yet unknown and undefined "co-benefits" for DACs, but currently there is no evidence to support this idea, and there are no clear parameters to evaluate "co-benefits".[40] Therefore, while PG&E should be allowed to locate DCFC near DACs and track possible co-benefits, as discussed above with MUDs, DCFC near DACs should not be counted toward the DAC deployment requirements.

C. Deployment Criteria Should Focus On Areas with the Highest Air Pollution

PG&E has acknowledged the special need in the Central Valley for improvements in air quality that can come from transportation electrification.[41] This warrants a more targeted

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[38] PG&E Opening Brief at 39.
[39] *Id.* at 38.
[40] A.15-02-009 *Opening Brief of Chargepoint, Inc.* (6/17/2016)("ChargePoint Opening Brief") at 72.
[41] *Id.*

deployment goal for DACs in the Central Valley.[42] JMP recommends that all or a significant portion of deployment goals for DACs included in any pilot program be set aside for communities located in the Central Valley within PG&E's service territory.

D. Equity Programs Must Target Low-Income Ratepayers Who Would Otherwise Be Excluded from EV Program Participation

While JMP supports the provision to set aside $5 million toward EV adoption programs in DACs[43], we share the concerns of other ratepayers that the funding criteria is not sufficiently defined to prevent misallocation[44], such as those identified with the overly broad definition of DACs[45]. Rather than reject the $5 million set aside provision, JMP supports TURN's recommendation to include income eligibility requirements for ratepayers to receive support through the equity programs[46], as well as the recommendation to use low carbon fuel standard (LCFS) revenue to issue rebates on the purchase price of EV.[47]

JMP additionally proposes that the number of rebates be based on the 20% goal for DAC charger deployment[48], such that (2,510 x .2 = ~500) up to 500 low-income EV adopters living in DACs be offered rebates. Additionally, rebate amounts should vary on a sliding scale based on income level, providing between $5,000-$10,000. This would make the average rebate $7,500, matching the Federal Tax Credit amount for EVs[49], and even if all 500 ratepayers were given the full $10,000 rebate, this would not exceed the proposed $5 million set aside amount, not

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[42] The Central Valley encompasses all or parts of the following counties: Butte, Colusa, Glenn, El Dorado, Fresno, Kings, Madera, Merced, Placer, San Joaquin, Sacramento, Shasta, Stanislaus, Sutter, Tehama, Tulare, Yuba, Yolo, and Kern. "A Statistical Tour of California's Great Central Valley", *California Research Bureau*, California State Library. http://www.library.ca.gov/crb/97/09/.
[43] JMP Opening Brief at 28.
[44] TURN Opening Brief at 57-58.
[45] JMP Opening Brief at 21.
[46] TURN Opening Brief at 57-58.
[47] *Id*. at 58-59.
[48] JMP Opening Brief at 26.
[49] https://www.fueleconomy.gov/feg/taxevb.shtml.

including funds available from the LCFS program.

VI. A HYBRID UTILITY OWNERSHIP MODEL AND DECLINING REBATE STRUCTURE PROVIDE BETTER DATA FOR FUTURE PROGRAM DESIGN

JMP supports many of the alternative provisions offered by non-settling parties to address the concerns highlighted above and in our opening brief. Given the strength of the existing EVSE market in PG&E's service territory, the need for PG&E to focus on their core services, and the risks due to developing technology, JMP agrees with TURN, ChargePoint and other non-settling parties that utility ownership should be limited to the infrastructure up to the "make-ready stub", and charging stations be owned by site hosts.[50]

However, if the Commission concludes that full utility ownership is an acceptable risk, such a model should be allowed only in the underserved markets of MUDs and DACs.[51] This restriction would be in line with prioritizing support for underserved markets that could benefit from ratepayer funded utility involvement while protecting the existing EVSE market. This would also provide a third pilot model to test, in addition to the SDG&E program which is already testing a full utility ownership model[52] and the Southern California Edison program testing the "make-ready stub" model[53]. Hybrid ownership within a single service territory would provide a valuable comparison of the effectiveness of the two approaches with fewer geographic-specific variables.

While we maintain our recommendation for full rebates on charging stations for MUDs

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[50] TURN Opening Brief at 10, ChargePoint Opening Brief at 28, 68-69.
[51] ChargePoint Opening Brief at 29.
[52] SDG&E decision.
[53] D.16-01-023, *Decision Regarding Southern California Edison Company's Application for Charger Ready and Market Education Programs*, (1/25/2106) ("SCE Decision").

in DACs[54], JMP also agrees that a declining rebate structure in other market segments would provide benefits over a standard rebate amount, including more effectively incentivizing quick sign up, leveraging more private capital to reduce ratepayer risk, and testing the level of private capital that can be leveraged through these types of programs.[55] TURN's proposed rebate structure initially covering 75% of charging station costs, then decreasing the rebate to 50% after one-third the number of sites have received chargers is very reasonable.[56] JMP also recommends for market segments other than MUDs, further reducing the rebate to 25% after two-thirds of the target number of sites have received chargers. This would prioritize encouraging EV adoption in underserved areas, bring the final rebate levels in line with SCE decision precedent[57], and provide further data on the amount of private capital that can be leveraged through different levels of rebates.

VII. CONCLUSION

JMP urges the Commission to adopt the joint recommendations of the non-settling parties to modify the PG&E compliant proposal into a workable pilot program. Special consideration must be given to the underserved MUD market segment and disadvantaged communities, so that ratepayer funds and the advantages of the utility monopoly will only be used to stimulate EV adoption in areas that most need support, and where third party EVSE providers are unable to penetrate. Targeting resources to increase EV adoption in the underserved communities most impacted by air pollution advances our State's clean air goals and benefits all ratepayers.

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54 JMP Opening Brief at 21.
55 TURN Opening Brief at 10.
56 *Id.* at 10, 20-21.
57 JMP Opening Brief at 20.

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Respectfully Submitted,

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